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**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

ANGELA E. KNOST, Plaintiff, v. LUXURY LISTINGS NYC, LLC, Defendant.	Case No.:
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COMPLAINT AND JURY DEMAND

Angela E. Knost (“Plaintiff”), by her undersigned attorneys, Rath, Young and Pignatelli, P.C., for her complaint against defendant Luxury Listings NYC, LLC (“Defendant”) alleges as follows:

SUBSTANCE OF THE ACTION

1. This is a case of willful copyright infringement in violation of 17 U.S.C. §§ 106(1), 501, and for violation of § 1202.
2. Plaintiff seeks compensatory or statutory damages in an amount to be established at trial.

PARTIES

3. Plaintiff is an individual doing business at 8460 Watson Road, Suite 106, St. Louis, Missouri, 63119.

4. Upon information and belief, Defendant is domestic limited liability company registered in the State of New York with a principal place of business at 450 West 31st Street, 4th Floor, New York, New York 10001.

JURISDICTION AND VENUE

5. This is a civil action seeking damages and injunctive relief for copyright infringement under the copyright laws of the United States, and therefore this Court has jurisdiction under 17 U.S.C. § 101 et seq., 28 U.S.C. § 1331 (federal question jurisdiction), and 28 U.S.C. § 1338 (a) (jurisdiction over copyright actions).

6. Personal jurisdiction over Defendant is proper. Defendant is conducting business in this judicial district and committing torts in this state, including without limitation copyright infringement which causes harm in this state and judicial district.

7. Pursuant to 28 U.S.C. § 1391, venue properly lies in this Court because a substantial part of the events giving rise to the claims herein occurred in this judicial district.

FACTS COMMON TO ALL CLAIMS FOR RELIEF

A. Plaintiff's Business

8. Plaintiff is a professional photographer who makes a living licensing her photographic works for various purposes, including editorial purposes. She has published her works in a number of notable media outlets, including *Food & Wine*, *Good Housekeeping*, *Men's Health*, *Huffington Post*, among others.

9. Plaintiff is the sole creator of the photographic image referenced as Sarahs028 (the "Copyrighted Work") and is the sole owner of the copyright in and to the Copyrighted Work, a

copy of which is attached hereto as Exhibit A.

10. On January 30, 2015, Plaintiff obtained a registration with the United States Copyright Office for the Copyrighted Work, Registration Number VA 1-944-058, a copy of which is attached hereto as Exhibit B.

11. Plaintiff included copyright management information in her work.

B. Defendant's Unlawful Activities

12. Upon information and belief, Defendant owns and operates a number of websites, including the website found at URL <http://www.llnyc.com> where it publishes articles and photographic images to lure internet users where it markets its services and profits from advertising revenue that grows as its viewership grows.

13. Plaintiff has discovered the Copyrighted Work being reproduced, distributed, and publicly displayed at the websites located at the following URLs (the "Infringing Websites"):

- <http://www.llnyc.com/wp-content/uploads/2016/10/brushing-tired-blog.jpg>
- <http://www.llnyc.com/78515-this-new-product-could-take-your-shower-thoughts-to-the-next-level>

14. Screenshots from the Infringing Websites are attached hereto as Exhibit C.

15. Upon information and belief, the Infringing Websites are owned and operated by Defendant.

16. Upon information and belief, Defendant is responsible for the unlawful reproduction, distribution, and public display of the Copyrighted Work at the Infringing Website.

17. Upon information and belief, Defendant knew or should have known that a license was needed for its use of the Copyrighted Work so its unauthorized reproduction, distribution, and public display of Plaintiff's Copyrighted Work was knowing and willful and in reckless disregard of Plaintiff's rights.

FIRST CLAIM FOR RELIEF
(Direct Copyright Infringement)

18. Plaintiff realleges the above paragraphs and incorporates them by reference as if fully set forth herein.

19. The Copyrighted Work is an original work of authorship, embodying copyrightable subject matter, subject to the full protection of the United States copyright laws.

20. Plaintiff has all rights, title and interest in and to the copyrights in the Copyrighted Work.

21. Upon information and belief, as a result of Plaintiff's reproduction, distribution and public display of the Copyrighted Work, Defendant had access to the Copyrighted Work prior to Defendant's use of the Copyrighted Work at the Infringing Websites.

22. By its actions, as alleged above, Defendant infringed and violated Plaintiff's exclusive rights in violation of the Copyright Act, 17 U.S.C. §501, by reproducing, distributing and publicly displaying the Copyrighted Work.

23. Upon information and belief, Defendant's infringement of Plaintiff's copyrights is willful and deliberate and Defendant profited at the expense of Plaintiff.

24. As a direct and proximate result of Defendant's infringement of Plaintiff's copyrights and exclusive rights in the Copyrighted Work, Plaintiff is entitled to recover its actual damages resulting from Defendant's uses of the Copyrighted Work without paying license fees, in an amount to be proven at trial.

25. In addition, at Plaintiff's election, pursuant to 17 U.S.C. § 504(b), Plaintiff shall be entitled to recover damages based on a disgorgement of Defendant's profits from the infringement of the Copyrighted Work, which amounts will be proven at trial.

26. In the alternative, and at Plaintiff's election, Plaintiff is entitled to maximum statutory damages, pursuant to 17 U.S.C. § 504(c), in the amount of \$150,000 per work with respect to the infringing reproduction, distribution, and public display of the Copyrighted Work, or such other amounts as may be proper under 17 U.S.C. § 504(c).

27. Plaintiff is entitled to its costs, including reasonable attorneys' fees, pursuant to 17 U.S.C. § 505.

28. Defendant's conduct has caused and any continued infringing conduct will continue to cause irreparable injury to Plaintiff unless enjoined by this Court. Plaintiff has no adequate remedy at law. Pursuant to 17 U.S.C. § 502, Plaintiff is entitled to a permanent injunction prohibiting infringement of Plaintiff's exclusive rights under copyright law.

SECOND CLAIM FOR RELIEF
(Contributory Copyright Infringement)

29. Plaintiff realleges the above paragraphs and incorporates them by reference as if fully set forth herein.

30. As an alternative theory to its direct infringement claim, in the event Defendant contends the infringing conduct described above is done by another, Defendant had either actual or constructive knowledge of the above-described infringements and either induced, caused or materially contributed to the infringing conduct described above.

31. By their actions, as alleged above, the Defendants foregoing acts of contributory infringement violate Plaintiff's exclusive rights in violation of the Copyright Act, 17 U.S.C. §501.

32. Upon information and belief, the foregoing acts of contributory infringement of Plaintiff's copyright are willful and deliberate and Defendant profited at the expense of Plaintiff.

33. As a direct and proximate result of the contributory infringement of Plaintiff's exclusive copyrights in the Copyrighted Work, Plaintiff is entitled to recover her actual damages resulting from Individual Defendants' uses of the Copyrighted Work without paying license fees, in an amount to be proven at trial.

34. In addition, at Plaintiff's election, pursuant to 17 U.S.C. § 504(b), Plaintiff shall be entitled to recover damages based on a disgorgement of the Individual Defendants' profits from infringement of the Copyrighted Work, which amounts will be proven at trial.

35. In the alternative, and at Plaintiff's election, Plaintiff is entitled to maximum statutory damages, pursuant to 17 U.S.C. § 504(c), in the amount of \$150,000 per work with respect to the infringing reproduction, distribution, and public display of the Copyrighted Work, or such other amounts as may be proper under 17 U.S.C. § 504(c).

36. Plaintiff is entitled to her costs, including reasonable attorneys' fees, pursuant to 17 U.S.C. § 505.

37. The Individual Defendants' conduct has caused and any continued infringing conduct will continue to cause irreparable injury to Plaintiff unless enjoined by this Court. Plaintiff has no adequate remedy at law. Pursuant to 17 U.S.C. § 502, Plaintiff is entitled to a permanent injunction prohibiting infringement of Plaintiff's exclusive rights under copyright law.

THIRD CLAIM FOR RELIEF
(Vicarious Copyright Infringement)

38. Plaintiff realleges the above paragraphs and incorporates them by reference as if fully set forth herein.

39. As an alternative theory to her infringement claims above, to the extent any of Defendant contends it did not directly infringe or contributorily infringe Plaintiff's copyrights, Defendant had the right or ability to control the direct infringement described above.

40. As a result of Defendant's right or ability to supervise the direct infringement described above, Defendant could have prevented or stopped the direct infringement but did not take any action to do so.

41. Defendant had a direct financial interest in the reproduction, distribution and public display of the Copyrighted Work and benefitted from that direct infringement.

42. As a direct and proximate result of the Individual Defendant's vicarious infringement of Plaintiff's copyright and exclusive rights in the Copyrighted Work, Plaintiff is entitled to recover her actual damages resulting from the Defendant's uses of the Copyrighted Work without paying license fees, in an amount to be proven at trial.

43. In addition, at Plaintiff's election, pursuant to 17 U.S.C. § 504(b), Plaintiff shall be entitled to recover damages based on a disgorgement of the Individual Defendants' profits from infringement of the Copyrighted Work, which amounts will be proven at trial.

44. In the alternative, and at Plaintiff's election, Plaintiff is entitled to maximum statutory damages, pursuant to 17 U.S.C. § 504(c), in the amount of \$150,000 per work with respect to the infringing reproduction, distribution, and public display of the Copyrighted Work, or such other amounts as may be proper under 17 U.S.C. § 504(c).

45. Plaintiff is entitled to her costs, including reasonable attorneys' fees, pursuant to 17 U.S.C. § 505.

46. Defendant's conduct has caused and any continued infringing conduct will continue to cause irreparable injury to Plaintiff unless enjoined by this Court. Plaintiff has no adequate remedy at law. Pursuant to 17 U.S.C. § 502, Plaintiff is entitled to a permanent injunction prohibiting infringement of Plaintiff's exclusive rights under copyright law.

FOURTH CLAIM FOR RELIEF
VIOLATION OF THE DIGITAL MILLENNIUM COPYRIGHT ACT
(17 U.S.C. § 1202)

47. Plaintiff realleges the above paragraphs and incorporates them by reference as if fully set forth herein.

48. The Copyrighted Work contained copyright management information.

49. Upon information and belief, Defendant intentionally removed copyright management information from the Copyrighted Work.

50. Upon information and belief, Defendant removed and/or altered copyright management information knowing or having reasonable grounds to know that such actions would conceal its infringement of Plaintiff's copyright.

51. Upon information and belief, Defendant reproduced, distributed and publicly displayed the Copyrighted Work without copyright management information in order to facilitate or conceal the infringement of Plaintiff's copyrights.

52. Upon information and belief, Defendant's acts in violation of the Digital Millennium Copyright Act were and are willful.

53. By reason of Defendant's violations of the Digital Millennium Copyright Act, Plaintiff has sustained and will continue to sustain substantial injuries.

54. Further irreparable harm is imminent as a result of Defendant's conduct, and Plaintiff is without an adequate remedy at law. Plaintiff is therefore entitled to an injunction, in accordance with 17 U.S.C. § 1203(b), restraining Defendant, its officers, directors, agents, employees, representatives, assigns, and all persons acting in concert with Defendant from engaging in further violations of the Digital Millennium Copyright Act.

55. At its election, and in lieu of Defendant's profits derived from its violations of the Digital Millennium Copyright Act and Plaintiff's actual damages, Plaintiff is entitled to

recover statutory damages in accordance with 17 U.S.C. § 1203(c)(3)(B), including damages up to \$25,000 for each violation of the Digital Millennium Copyright Act.

56. Plaintiff is entitled to recover costs and attorneys' fees in accordance with 17 U.S.C. § 1203(b)(4) and (5).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment as follows:

1. A declaration that Defendant infringed, either directly or indirectly, Plaintiff's copyrights in the Copyrighted Work under the Copyright Act;
2. A declaration that such infringement is willful;
3. An award of such of actual damages and profits under 17 U.S.C. § 504(b) as the Court shall deem proper or, at Plaintiff's election, an award of statutory damages as the Court shall deem proper, as provided in 17 U.S.C. §§ 504(c), including damages for willful infringement of up to \$150,000 for each copyright infringement of each of the Copyrighted Work;
4. Awarding Plaintiff such exemplary and punitive damages as the Court finds appropriate to deter any future willful infringement;
5. Awarding Plaintiff its costs and disbursements incurred in this action, including its reasonable attorneys' fees, as provided in 17 U.S.C. §§ 505;
6. Awarding Plaintiff interest, including pre-judgment interest, on the foregoing sums;
7. Permanently enjoining Defendant, their employees, agents, officers, directors, attorneys, successors, affiliates, subsidiaries and assigns, and all those in active concert and participation with Defendant, from directly or indirectly infringing Plaintiff's copyrights or continuing to market, offer, sell, dispose of, license, lease, transfer, public

display, advertise, reproduce, develop or manufacture any works derived or copied from the Plaintiff's Copyrighted Work or to participate or assist in any such activity;

8. Awarding Plaintiff interest, including pre-judgment interest, on the foregoing sums;

9. Permanently enjoining Defendant, its employees, agents, officers, directors, attorneys, successors, affiliates, subsidiaries and assigns, and all those in active concert and participation with Defendant, from directly or indirectly infringing Plaintiff's copyrights or continuing to market, offer, sell, dispose of, license, lease, transfer, public display, advertise, reproduce, develop or manufacture any works derived or copied from the Plaintiff's Copyrighted Work or to participate or assist in any such activity; and

10. For such other and further relief as the Court may deem just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

Dated: January 28, 2019

Respectfully submitted,

By: /s/ R. Terry Parker
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